

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
THOMASVILLE DIVISION**

ETHEL D. KILGORE,

Claimant,

v.

MICHAEL J. ASTRUE,  
COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

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CASE NO. 6:05-CV-47 (HL)

SOCIAL SECURITY APPEAL

**RECOMMENDATION**

Presently pending before the Court is Petitioner's (Claimant's attorney) Motion for Attorney's Fees pursuant to 42 U.S.C. § 406(b)(1). (R-21). The record reveals that on March 16, 2006, Claimant's Social Security Appeal was remanded for further review. (R-14). Thereafter, on January 10, 2008, Petitioner was awarded \$3,742.12 in attorney's fees pursuant to the Equal Justice Act ("EAJA") 28 U.S.C. § 2412 (d). (R-20).

In a Notice of Award dated May 14, 2009, the Social Security Administration determined that Claimant was disabled and awarded past due benefits from August 2002 to May 2009 in the amount of \$48,791.00. (R-21-3, Exhibit "A"). Thereafter, on June 11, 2009, Petitioner filed the current Motion for Attorney's Fees, stating that Claimant and Petitioner signed a contingency fee agreement in which Claimant had agreed to pay Petitioner 25% of any past due benefits which could be awarded. (R-21-4, Exhibit "B"). Petitioner further asserted in his Brief that he performed approximately 41.55 hours of attorney services over a one-year period on Claimant's behalf. (R-21). Petitioner also

affirmed that Claimant has filed no objection to his request for attorney's fees. *Id.*

Pursuant to the holding in *Gisbrecht v. Barnhart*, therefore, it appears that Petitioner's request for the award of attorney's fees in the amount of \$6,897.75 is not unreasonable. *See Gisbrecht v. Barnhart*, 535 U.S. 789 (2002). A review of similar cases in this Circuit fails to reveal that Petitioner's request is otherwise.

WHEREFORE, it is hereby RECOMMENDED that Petitioner's Motion for Attorney's Fees be GRANTED in the amount of \$6,897.75. Pursuant to 28 U.S.C. § 636(b)(1), either party may serve and file written objections to this recommendation with the United States District Judge to whom this case is assigned within ten (10) days after being served a copy of this Recommendation.

**SO RECOMMENDED**, this 16<sup>th</sup> day of July, 2009.

S/G. MALLON FAIRCLOTH  
UNITED STATES MAGISTRATE JUDGE

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